

IN THE SENATE

SENATE BILL NO. 1289

BY JUDICIARY AND RULES COMMITTEE

AN ACT

RELATING TO ALCOHOL AND MOTOR VEHICLES; AMENDING SECTION 18-8004C, IDAHO CODE, TO REVISE PROVISIONS RELATING TO EXCESSIVE ALCOHOL CONCENTRATION; AND PROVIDING AN EFFECTIVE DATE.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 18-8004C, Idaho Code, be, and the same is hereby amended to read as follows:

18-8004C. EXCESSIVE ALCOHOL CONCENTRATION --
PENALTIES. Notwithstanding any provision of section 18-8005, Idaho Code, to the contrary:

(1) Any person who pleads guilty to or is found guilty of a violation of the provisions of section 18-8004(1)(a), Idaho Code, for the first time, but who has an alcohol concentration of 0.~~20~~15, as defined in section 18-8004(4), Idaho Code, or more, as shown by an analysis of his blood, breath or urine by a test requested by a police officer, shall be guilty of a misdemeanor; and:

(a) Shall be sentenced to jail for a mandatory minimum period of not less than ten (10) days the first forty-eight (48) hours of which must be consecutive, and may be sentenced to not more than one (1) year;

(b) May be fined an amount not to exceed two thousand dollars (\$2,000);

(c) Shall be advised by the court in writing at the time of sentencing, of the penalties that will be imposed for subsequent violations of the provisions of this section and violations of section 18-8004, Idaho Code, which advice shall be signed by the defendant, and a copy retained by the court and another copy retained by the prosecuting attorney;

(d) Shall surrender his driver's license or permit to the court;

(e) Shall have his driving privileges suspended by the court for an additional mandatory minimum period of one (1) year after release from confinement, during which one (1) year period absolutely no driving privileges of any kind may be granted; and

(2) Any person who pleads guilty to or is found guilty of a violation of the provisions of section 18-8004, Idaho Code, and who has an alcohol concentration of 0.~~20~~15, as defined in section 18-8004(4), Idaho Code, or more, as shown by an analysis of his blood, breath or urine by a test requested by a police officer, and who previously has been found guilty of or has pled guilty to one (1) or more violations of section 18-8004, Idaho Code, in which the person had an alcohol concentration of 0.~~20~~15 or more, or any substantially conforming foreign criminal violation wherein the defendant had an alcohol concentration of 0.~~20~~15 or more, or any combination thereof, within five (5) years, notwithstanding the form of judgment or withheld judgment shall be guilty of a felony; and:

1 (a) Shall be sentenced to the custody of the state board of correction
2 for not to exceed five (5) years; provided that notwithstanding the
3 provisions of section 19-2601, Idaho Code, should the court impose
4 any sentence other than incarceration in the state penitentiary,
5 the defendant shall be sentenced to the county jail for a mandatory
6 minimum period of not less than thirty (30) days; and further provided
7 that notwithstanding the provisions of section 18-111, Idaho Code, a
8 conviction under this section shall be deemed a felony;

9 (b) May be fined an amount not to exceed five thousand dollars (\$5,000);

10 (c) Shall surrender his driver's license or permit to the court;

11 (d) Shall have his driving privileges suspended by the court for
12 a mandatory minimum period of one (1) year after release from
13 imprisonment, and may have his driving privileges suspended by the
14 court for not to exceed five (5) years after release from imprisonment,
15 during which time he shall have absolutely no driving privileges of any
16 kind; and

17 (e) Shall, while operating a motor vehicle, be required to drive only
18 a motor vehicle equipped with a functioning ignition interlock system,
19 as provided in section 18-8008, Idaho Code, following the mandatory
20 license suspension period.

21 (3) Notwithstanding the provisions of subsections (1)(e) and (2)(d)
22 of this section, a person who is enrolled in and is a participant in good
23 standing in a drug court approved by the supreme court drug court and
24 mental health court coordinating committee under the provisions of chapter
25 56, title 19, Idaho Code, shall be eligible for restricted noncommercial
26 driving privileges for the purpose of getting to and from work, school or an
27 alcohol treatment program, which may be granted by the presiding judge of
28 the drug court, provided that the offender has served a period of absolute
29 suspension of driving privileges of at least forty-five (45) days, that an
30 ignition interlock device is installed on each of the motor vehicles owned or
31 operated, or both, by the offender, and that the offender has shown proof of
32 financial responsibility as defined and in the amounts specified in section
33 49-117, Idaho Code, provided that the restricted noncommercial driving
34 privileges may be continued if the offender successfully completes the drug
35 court, and that the court may revoke such privileges for failure to comply
36 with the terms of probation or with the terms and conditions of the drug court
37 program.

38 (4) All the provisions of section 18-8005, Idaho Code, not in conflict
39 with or otherwise provided for in this section, shall apply to this section.

40 (5) Notwithstanding any other provision of law, any evidence of
41 conviction under this section shall be admissible in any civil action for
42 damages resulting from the occurrence. A conviction for the purposes of
43 this section means that the person has pled guilty or has been found guilty,
44 notwithstanding the form of the judgment or withheld judgment.

45 SECTION 2. This act shall be in full force and effect on and after July
46 1, 2010, and the amendment in this act shall apply only to those persons who
47 commit an offense on or after July 1, 2010.